

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Strickland Analyst: Kristina North Bill Number: AB 287

Related Bills: See Prior Analyses Telephone: 845-6978 Amended Date: April 22, 1999

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Agricultural Product Donations Credit/FTB Report To Legislature Regarding Number Of Credits Claimed Annually

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced February 4, or amended March 10, 1999.

FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO NEUTRAL.

☒ REMAINDER OF PREVIOUS ANALYSES OF BILL AS INTRODUCED FEBRUARY 4, and AMENDED MARCH 10, 1999, STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would provide a credit equal to 10% of the wholesale value of agricultural products donated by a taxpayer to a nonprofit charitable organization or food bank.

SUMMARY OF AMENDMENT

The April 22, 1999, amendment:

- ◆ limits the credit to 10% of the fair market value (FMV) at wholesale of agricultural products donated by a taxpayer;
- ◆ provides the repeal date of December 31, 2005;
- ◆ requires the taxpayer to provide a receipt from the recipient organization with the type and quantity of product donated, name or names of the donor or donors, and the name and address of the recipient;
- ◆ provides a taxpayer the option of taking a tax deduction for a charitable contribution of agricultural products or claiming a credit for agricultural products donated under this section; and
- ◆ requires the Franchise Tax Board to report to the Legislature on or before November 30, 2004, on the number of agricultural products credits claimed annually.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input checked="" type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas **5/13/1999**

These changes eliminate policy concerns regarding the amount and computation of the credit and the lack of a repeal date which were raised in the analysis of the bill as introduced February 4, 1999. As a result of the amendments, additional implementation and technical concerns and a new revenue estimate are provided, as well as a board position update. The implementation concerns are restated below.

Implementation Considerations

Definitions are needed for "agricultural products," "nonprofit charitable organizations," and "food bank." The author may wish to consider using the definitions provided in the California Food and Agricultural Code regarding the donation of food.

It is unclear what constitutes and who would determine the "fair market value at wholesale." A definition would avoid disputes between taxpayers and the department. For example, is it unclear if the market value should be calculated as of the time of donation or at the highest wholesale price of the year. Further, it is unclear whether donated products that might have no market value because of size, quality, etc., would be treated as qualifying for the credit.

While this bill would now require the taxpayer to "provide a receipt from the recipient organization;" however, there is no requirement that the recipient organization provide the receipt to the taxpayer. Moreover, the bill does not indicate to whom the taxpayer is to provide the receipt. Receipts and certifications for tax credits are generally not submitted to the FTB unless requested. The author may wish to consider 1) requiring the **recipient organization** to provide the taxpayer with a receipt with the type and quantity of product donated, name or names of the donor or donors, and the name and address of the recipient, and 2) requiring the **taxpayer** to provide a copy of the receipt to the Franchise Tax Board upon request. Additionally, the responsible party for determining the fair market value at wholesale should provide that amount to the department so it may calculate the 10% of the fair market value at wholesale for the credit.

The carryover of the credit would continue indefinitely after the repeal date. Most recently enacted credits have contained a carryover limit since credits are typically exhausted within eight years. Limiting the carryover allows the department to eventually remove the credit from the tax returns.

Technical Considerations

The credit would be repealed on December 31, 2005, unless a later enacted statute deletes or extends that date. This phrasing is not standard for credits. The typical format for credits would be to start with operative date language ("For each taxable year beginning on or after January 1, 1999, and before January 1, 2005") and repeal the credit on December 1, 2005. Also, the language specifying that a later enacted statute may delete or extend this date is unnecessary.

LEGISLATIVELY MANDATED REPORTS

The Franchise Tax Board is required to report to the Legislature on or before November 30, 2004, on the number of agricultural products credits claimed annually.

Tax Revenue Estimate

The revenue loss is shown in the following table.

Fiscal Year Cash Flow Taxable Years Beginning After December 31, 1998 Enactment Assumed After June 30, 1999 \$ Millions			
	1999/2000	2000/2001	2001/2002
Personal Income Tax	-minor*	-minor*	-minor*
Bank & Corporation Tax	-minor**	-\$1	-\$1
Total	-minor**	-\$1	-\$1

* Loss less than \$100,000

** Loss on the order of \$500,000

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

The revenue impact for this bill is determined by the potential number of taxpayers donating agricultural products, wholesale values, and the average amount of credit that can be applied against available tax liabilities.

This amendment differs from the amended version dated March 10, 1999, by changing the credit percentage amount from 100% to 10%.

This estimate was developed in the following steps. First, revenue losses under prior state law for the 10% credit (based on inventory cost) were compiled from historical data for 1989 through 1991. Second, the credit amount was adjusted to reflect higher wholesale values for some taxpayers. Third, a modest incentive effect of 10% was applied. It was assumed that unapplied carryover credits would be exhausted over a three-year period. This analysis also takes into consideration the offsetting tax effect of deductions for contributions that would be otherwise allowed under current law.

BOARD POSITION

Neutral.

At its March 23, 1999, meeting, the Franchise Tax Board voted 2-0 to take a neutral position on this bill as introduced February 4, 1999.